REMARKS

Claims 1-15 are now in the application. by the above amendments to the claims.

Claims 1-15 were rejected under 35 U.S.C. 102(b) as being anticipated or under 35 U.S.C. 103(a) as being obvious over US Patent 6,350,488 to Lee et al. al (hereinafter also referred to as "Lee") are not deemed tenable. Lee does not anticipate and does not render obvious the present invention since, among other things, Lee does not even remotely suggest that the diameter of carbon nanotubes could or should be controlled by controlling the residence time of the carbon containing precursor in the reaction chamber.

Example 1 of Lee does not suggest this as urged in the office action. In particular, Example 1, as well as the entire disclosure of Lee, does not even remotely suggest that there exists a causal relationship between residence time control and diameter control. Example 1 merely discusses what was done and then comments on the results but in no way ties the results achieved to residence time control.

In fact, if anything, Lee teaches away from the present invention since the critical aspect of Lee seems to be etching the metal catalyst layer to form isolated nanosized catalytic metal particles evenly distributed over an area of the substrate. This is the aspect of Lee that purports to address prior art problems including control of length and diameter. Therefore persons skilled in the art would be lead by Lee to use the technique of isolated nanosized catalytic particles not some other parameter to control diameter.

In fact when Lee discusses pressures, such are with respect to the catalytic particles and are selected according to the type of apparatus employed. See column 4, lines 28-33.

In addition to the extent inherency is being relied upon such is misplaced. Inherency requires that the recited results or structure must necessarily be obtained not merely that it might be achieved. See *Electra Medical Systems S.A.* v. *Cooper Life Sciences, Inc.*, 32 USPQ2d 1017 (Fed. Cir. 1994); *In re Oelrich*, 212 USPQ 323 (CCPA 1981) and *In re Robertson*, 49 USPQ2d 1949 (Fed. Cir. 1999).

Claims 1-15 were rejected under 35 U.S.C. 102(a) as being anticipated or under 35 U.S.C. 103(a) as being obvious over WO-2003/068676 as translated in Maruyama et al, US 2005/0079118. This rejection of the claims has been overcome by the of filing of the attached Declaration under 37 CFR 1.132 along with its exhibits establishing that the present invention was made prior to August 21, 2003, the effective date of Maruyama et al. Upon receipt of the signed Declaration from Dinkar Singh, it will be filed in this application. This Declaration was not previously presented since the Final Office Action was the first time that WO-2003/068676 was applied against the claims. The filing of the Declaration is not to be construed as an admission, estoppel or acquiescence to this rejection. Please see *Greenwood v. Hattori Seiko Co. Ltd.* 14 USPQ 2d 1474 (Fed. Cir. 1990).

In view of the above, consideration and allowance are respectfully solicited.

In the event the Examiner believes an interview might serve in any way to advance the prosecution of this application, the undersigned is available at the telephone number noted below.

The Office is authorized to charge any necessary fees to Deposit Account No. 22-0185, under Order No. 20140-00309-US1 from which the undersigned is authorized to draw.

Dated:

Respectfully submitted,

By _____

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